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20 **UNITED STATES DISTRICT COURT**

21 **DISTRICT OF NEVADA**

22 Planned Parenthood Mar Monte,

23 Case No.: 3:85-cv-00331-ART-CSD

24 Plaintiff,

25 vs.

26 Aaron Ford, in his capacity as Nevada
27 Attorney General, et al.,

28 **PLAINTIFF'S MOTION FOR
VOLUNTARY DISMISSAL
WITHOUT PREJUDICE**

29 Defendants

30 Pursuant to Federal Rule of Civil Procedure 41(a)(2), Plaintiff, Planned
31 Parenthood Mar Monte, Inc. (“PPMM”) hereby moves to voluntarily dismiss all of its
32 claims in this action without prejudice and without the imposition of terms and
33 conditions imposed upon the grant of such order. Defendants Carson City District
34 Attorney and Lyon County District Attorney (“District Attorneys”) oppose this
35 motion. At the time of filing, no other party has stated their position. PPMM is
36 simultaneously moving for voluntarily dismissal of its Ninth Circuit appeal. The

1 grant of PPMM's motion to dismiss its appeal returns jurisdiction to this Court to
 2 grant this motion for dismissal under Fed. R. Civ. P. 41(a)(2). As set forth below, the
 3 grant of Plaintiff's motion for voluntary dismissal without prejudice will not cause
 4 defendants any legal prejudice.

5 RELEVANT FACTS AND PROCEDURAL HISTORY

6 This action challenging S.B. 510, which restricted access to abortion for patients
 7 under the age of eighteen, was filed in 1985, twelve years after the United States
 8 Supreme Court first recognized the federal constitutional right to abortion in *Roe v.*
 9 *Wade*, 410 U.S. 113 (1973). For almost fifty years, *Roe* was settled law until its
 10 overruling in *Dobbs v. Jackson Women's Health Organization*, 597 U.S. 215 (2022).
 11 In light of this landmark shift in jurisprudence, PPMM, through its counsel,
 12 respectfully moves to voluntarily dismiss this action without prejudice. As the parties
 13 are familiar with the factual circumstances and procedural history in this matter
 14 through extensive contemporaneous briefing, PPMM addresses only the facts
 15 relevant to this Motion.

16 I. BACKGROUND

17 S.B. 510, passed in 1985, bars a physician from performing an abortion for any
 18 "unmarried or unemancipated" patient under the age of eighteen without notifying a
 19 "custodial parent or guardian" ("parental notification"), or unless the abortion is
 20 judicially authorized through a through a specified process ("judicial bypass"). *See*
 21 NRS 442.255; NRS 442.2555.

22 On June 28, 1985, Dr. Eugene Glick and Planned Parenthood of Washoe County¹
 23 filed suit against state and local officials responsible for enforcing the statutes. The
 24 complaint sought an injunction to prevent these statutes from taking effect, arguing
 25 that they violated multiple federal constitutional provisions. *See* Compl., ECF No. 1.
 26

27 ¹ Dr. Eugene Glick is deceased. *See* Mot. for Substitution and To Be Designated Successor Pl. 2,
 28 ECF No. 103. PPMM is the successor in interest of Planned Parenthood Washoe County, the
 original plaintiff in these proceedings. *Id.*

1 This Court granted a temporary restraining order that day, *see TRO*, ECF No. 6, and
2 a preliminary injunction on July 17, 1985, *see Glick v. McKay*, 616 F. Supp. 322 (D.
3 Nev. 1985), barring enforcement of the parental notification and judicial bypass
4 provisions. On August 5, 1985, Defendant Brian McKay filed an Answer to Plaintiffs'
5 Complaint. Answer, ECF No. 45. On June 21, 1991, the United States Court of
6 Appeals for the Ninth Circuit, in affirming the injunction, held that the statutes were
7 unconstitutional because the bypass process set forth in the statute did "not
8 sufficiently protect a pregnant minor's constitutional right to an abortion." *See Glick*
9 *v. McKay*, 937 F.2d 434, 442 (9th Cir. 1991). On October 10, 1991, this Court granted
10 the Plaintiffs' unopposed motion for summary judgment, (ECF No. 68, ECF No. 71),
11 and issued declaratory and permanent injunctive relief barring enforcement of the
12 challenged statutory provisions. Judgment, ECF No. 74; J. in a Civil Case, ECF No.
13 75.

14 On June 24, 2022, the United States Supreme Court decided *Dobbs v. Jackson*
15 *Women's Health Organization*, 597 U.S. 215 (2022), which overturned *Roe v. Wade*
16 and *Planned Parenthood of Se. Pa. v. Casey*, 506 U.S. 833 (1992), longstanding federal
17 legal precedent.

18 On December 1, 2023, Defendants Carson City District Attorney and Lyon
19 County District Attorney ("District Attorneys"), filed a Motion under Rule 60(b)(5)
20 seeking to vacate this Court's 1991 final judgment. Mot. of Defs. Jason D. Woodbury,
21 Carson City District Att'y, & Stephen B. Rye, Lyon County District Att'y, for Relief
22 Under Fed. R. Civ. P. 60(b)(5), ECF No. 83. No other Defendant joined the Rule 60(b)
23 Motion. *See id.* On October 29, 2024, this Court held a hearing on the motion and
24 subsequently ordered supplemental briefing, which was completed on December 20,
25 2024. *See* Mins. of Proceedings, ECF No. 127; Order on Suppl. Briefing, ECF No. 126.

26 On March 31, 2025, this Court granted Rule 60(b)(5) relief, vacating the
27 permanent injunction as of April 30, 2025, and allowing NRS 442.255, 442.2555, and
28 442.257 to go into effect that day. *See* Rule 60(b) Order, ECF No. 135. The Court

1 limited its merits analysis to whether under Fed. R. Civ. P. 60(b)(5)'s "inequity
2 provision," *Dobbs v. Jackson Women's Health Organization*, 597 U.S. 215 (2022)'s
3 overruling of *Roe v. Wade*, 410 U.S. 113 (1973), required the vacatur of this Court's
4 1991 permanent injunction. This decision did not address the District Attorneys'
5 other arguments in support of Fed. R. Civ. P. Rule 60 relief. See Rule 60(b)(5) Order
6 9. This Court found that because *Dobbs* overruled *Glick*, requiring compliance with
7 the 1991 permanent injunction was inequitable. *Id.* at 24.

On April 11, 2025, PPMM filed an appeal of the Rule 60(b) decision. Notice of Appeal, ECF No. 136. On April 14, 2025, PPMM filed a Motion to Stay the Rule 60(b) Order pending appeal before the District Court, or in the alternative, a temporary administrative stay to allow PPMM to seek a stay with this Court. ECF No. 137; ECF No. 139. On April 25, 2025, the District Court denied PPMM's Motion to Stay but granted a temporary administrative stay preserving the *status quo* to allow PPMM to seek relief with the Ninth Circuit pursuant to Fed. R. App. P. 8(a)(2), ECF No. 147.

15 On May 2, 2025, Plaintiff filed a Motion to Stay with the Ninth Circuit. ECF
16 No. 148. On July 18, 2025, the Ninth Circuit denied Plaintiff's Motion to Stay. ECF
17 No. 149. On July 22, 2025, this Court lifted its temporary stay of the order vacating
18 the injunction against enforcement of NRS 442.255, 442.2555, and 442.257. ECF No.
19 150. Concurrently, Plaintiff is filing a Motion to Voluntarily Dismiss the
20 aforementioned appeal before the Ninth Circuit.

LEGAL STANDARD

22 Federal Rule of Civil Procedure 41(a)(2) permits a district court to grant a
23 motion for voluntary dismissal unless a defendant can demonstrate that they will
24 suffer “some plain legal prejudice as a result.” *Kamal v. Eden Creamery, LLC*, 88
25 F.4th 1268, 1279-80 (9th Cir. 2023) (internal citations and quotations omitted); *Smith*
26 *v. Lenches*, 263 F.3d 972, 975 (9th Cir. 2001). Legal prejudice includes “prejudice to
27 some legal interest, some legal claim, some legal argument.” *Westlands Water Dist.*
28 *v. United States*, 100 F.3d 94, 97 (9th Cir. 1996). “[Ninth Circuit] case law makes

1 clear, the district court must determine whether granting a motion for dismissal
 2 without prejudice would result in legal prejudice to the defendant and, if not, the
 3 motion should be granted.” *Kamal*, 88 F.4th at 1282.

4 Once a defendant has answered or moved for summary judgment, Federal Rule
 5 of Civil Procedure 41(a)(2) permits a district court to dismiss the action without
 6 prejudice on “terms that the court considers proper.” The Ninth Circuit has
 7 recognized that a “district court should grant a motion for voluntary dismissal under
 8 FRCP 41(a)(2) unless a defendant can show that it will suffer some plain legal
 9 prejudice as a result.” *Lenches*, 263 F.3d at 975. “The purpose of the rule is to permit
 10 a plaintiff to dismiss an action without prejudice so long as the defendant will not be
 11 prejudiced or unfairly affected by dismissal.” *Stevedoring Servs. of Am. v. Armilla*
 12 *Int'l B.V.*, 889 F.2d 919, 921 (9th Cir. 1989) (internal citations and quotations
 13 omitted).

14 ARGUMENT

15 Here, Defendants² will not experience any legal prejudice should the Court grant
 16 PPMM’s motion to voluntarily dismiss without prejudice. The bulk of proceedings in
 17 this case transpired between 1985 and 1991, culminating in this Court granting
 18 Plaintiffs’ unopposed Motion for Summary Judgment in 1991 and entering
 19 permanent injunctive relief. PPMM did not cause or contribute to the circumstances
 20 that resulted in Movants’ seeking Rule 60(b) relief: through no fault of PPMM, the
 21 U.S. Supreme Court’s decision in *Dobbs v. Jackson Women’s Health Organization*
 22 overruled nearly fifty years of established precedent relied upon by the Ninth Circuit
 23 in *Glick v. McKay*. Similarly, PPMM played no role in two Defendants’ decision to
 24 seek reopening of the stale proceedings and resulting in the resumption of litigation
 25 and proceedings in this matter, and ultimately the vacatur of the *Glick* final
 26 judgment.

27
 28 ² Although only two Defendants in this case sought Rule 60(b)(5) relief – vacatur of the final
 judgment – PPMM seeks to dismiss claims against all Defendants in this case.

1 To date, no Defendant has filed a Motion for Summary Judgment in this case,
 2 nor has any discovery been undertaken in this matter. Rather, following the grant of
 3 Rule 60(b) relief, all current parties are back at square one: litigating, at minimum,
 4 federal constitutional claims and defenses pled in 1985 and untangling issues related
 5 to identifying present day counsel for all parties named in original proceedings whose
 6 participation is required due to their inclusion in the original complaint.³

7 Defendants also cannot claim prejudice from resources devoted to this case after
 8 1991. The Ninth Circuit has recognized that “expenses incurred in defending against
 9 a lawsuit does not amount to legal prejudice,” *see, e.g., Westlands Water Dist.*, 100
 10 F.3d at 97. Similarly, any expenses incurred by the current Defendants after 1991
 11 cannot constitute prejudice when these Defendants *voluntarily sought* Rule 60(b)
 12 relief over three decades after this case had been closed. Accordingly, the Court
 13 should decline any invitation to fault PPMM for the current Defendants’ decision to
 14 reopen long-dormant proceedings and thereby incur litigation expenses. Such costs
 15 and resources, arising from Defendants’ own strategic choices, are irrelevant to the
 16 adjudication of this motion. *Cf. Planned Parenthood S. Atl. v. Wilson*, No. CV 3:21-
 17 00508-MGL, 2022 WL 2905496, at *2 (D.S.C. July 22, 2022) (in granting a Rule
 18 41(a)(2) motion without prejudice, “refus[ing] to fault Plaintiffs for [Intervenors’]
 19 choice to enter this case and thus incur expenses during the pendency of litigation.”).

20 Defendants will not suffer any cognizable legal prejudice from dismissal of these
 21 proceedings without prejudice as they are no longer bound by this Court’s 1991
 22 permanent injunction. Dismissal without an adjudication on the merits regarding
 23 whether NRS 442.255 and NRS 442.2555 violate other federal constitutional
 24 provisions also does not create prejudice. As the Ninth Circuit has repeatedly
 25

26 ³ In the original *Glick* proceedings, numerous Defendants authorized and delegated authority to
 27 the then-Attorney General, Brian McKay to represent them in this action. Because only Defendants
 28 Pruyt and Rye, with independent counsel, have been a party to the Rule 60(b) Motion, the
 remaining sixteen Defendants named in this case, too, are implicated by the recommencement of
 proceedings.

1 affirmed, “uncertainty because a dispute remains unresolved,” standing alone, does
 2 not constitute legal prejudice. *Kamal*, 88 F.4th at 1280 (internal citations and
 3 quotations omitted).

4 In sum, because the facts and circumstances have substantially shifted since
 5 these proceedings began and ended between 1985-1991, PPMM respectfully requests
 6 that this Court allow it to voluntarily dismiss all claims without prejudice and
 7 without conditions.

8 **CONCLUSION**

9 For the foregoing reasons, PPMM respectfully requests that this Court
 10 promptly enter an order dismissing this action without prejudice.

11 Dated this 23rd day of July, 2025.

12 **BRAVO SCHRAGER LLP**

13

14 By _____ /s/ Bradley S. Schrager

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26

27 *Attorneys for Plaintiff,
 Planned Parenthood Mar Monte, Inc.*

1 CERTIFICATE OF SERVICE

2 I hereby certify that on this 23rd day of July, 2025, a true and correct copy of
3 this **PLAINTIFF'S MOTION FOR VOLUNTARY DISMISSAL WITHOUT**
4 **PREJUDICE** was served via the United States District Court CM/ECF system on
5 all parties or persons requiring notice.

6
7 By /s/ Dannielle Fresquez
8 Dannielle Fresquez, an Employee of
9 BRAVO SCHRAGER LLP